IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 545 OF 2007
IN
Notice of Motion No. 2227/2007
In
B.C.C.C.L.C. Suit No.2375/2007
WITH
CIVIL APPLICATION NO. 743 OF 2007
IN
A.O. NO 545/ 2007

Champalal Ghamandiram Bokadia .. Appellant.

V/s.

The Municipal Corporation of Gr. Bombay .. Respondents.

Mr.Shukla i/by M/s.G.H.Shukla & Co. for the Appellant.

Ms.Geeta Jogalekar for the Respondent.

CORAM : S. A. BOBDE, J.

DATED : 03rd JULY, 2007.

P.C. :-

. Heard.

2. Admit. Taken up for final disposal with consent of the parties.

3. The appellant has challenged order of the trial court, refusing injunction against the BMC in respect of a notice issued under section 351 of the BMC Act.

Admittedly, the suit is filed even though the Commissioner has not considered the appellant's reply to the notice under section 351 of the Act.

4. The learned counsel for the Respondent- BMC, states that the Assistant Municipal Commissioner will consider the cause shown by the appellant against the notice under section 351 and pass a reasoned order according to law. Indeed it would be appropriate, if the appellant takes recourse to a legal remedy thereafter.

5. In the circumstances, the appeal is disposed of with a direction to the Assistant Municipal Commissioner to decide the appellant's reply to the notice under section 351 and accordingly pass an order and take further action in accordance with law.

6. The appellant is, therefore, hereby allowed to withdraw the civil suit, being B.C.C.C.L.C. Suit No. 2375 of 2007. Refund of court fees, as per rules.

7. In the result, the Appeal with the civil application is disposed of accordingly.

(S.A.BOBDE,J.)

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